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1980/6

COMMISSIONERS
W. JACK GREER, 4TH DISTRICT
Chairman
W. ROBERT CHESTNUT, 6TH DISTRICT
Vice-Chairman
DORIS H. BROWN, 3RD DISTRICT
Secretary



COMMISSIONERS
VERNON B. STRICKLAND, 1ST DISTRICT
DR. LEOLA ADAMS, 2ND DISTRICT
FRANCES DANIEL, 5TH DISTRICT

State of South Carolina State Ethics Commission

GARY R. BAKER
EXECUTIVE DIRECTOR

(803) 758-7408
Room 116, 1026 Sumter Street
P.O. BOX 11627
COLUMBIA, S.C. 29211

NEWSLETTER

JUNE 1980

No. 80-005

STATEMENT OF ECONOMIC INTERESTS REQUIRED

Any public employee or public official whose annual compensation rate increases to \$20,000 or more is required to file a Statement of Economic Interests at the time of the compensation increase. Thus, any employees who will receive a general salary increase effective July 1, 1980 must file a Statement of Economic Interests at that time. Also, increases to compensation rates brought about by merit increases, transfers, promotions, or other personnel actions necessitate the filing of the form at that time.

The reporting requirement is based upon the employee's or official's present annual compensation rate, not on the amount of funds actually received. Thus, an employee whose annual salary increases from \$19,500 to \$20,500 on July 1 must file a Statement of Economic Interests for 1980 at that time. The information to be provided on the form in the compensation question, item 12, will probably be less than \$20,000. Generally, the figure reported there is the same as the W-2 figure for 1979.

Amended reporting requirements will be effective January 1, 1981.
See "Amendments Pass".

AMENDMENTS PASS

Two legislative proposals initiated and endorsed by the State Ethics Commission were passed and signed into law by Governor Riley on April 22, to become effective January 1, 1981. The amendment provides that candidates for public office will file a Statement of Economic Interests at the time of becoming a candidate, rather than twenty days after. All pre-election forms will be filed at the time of filing, rather than being fragmented by different time periods.

The legislation also provides for elimination of the \$20,000 reporting threshold by public employees or appointed officials effective January 1, 1981. The Commission proposed filing by personnel in policymaking positions and the amendment eliminates lower level employees whose annual compensation is more than \$20,000. The amendment provides for all State agency heads and their deputies, county and city administrators, school superintendents, all school board members, and the chief administrator of each political subdivision to file. Also filing are chief finance officials and purchasing officials of each political subdivision. All elected officials will continue to file.

The elimination of the \$20,000 reporting threshold will reduce the number of persons filing from approximately 20,000 in 1980 to approximately 8,000-9,000 in 1981.

Another amendment further provides for hearings with at least thirty days notice to the parties to the action, and that commission actions on complaints are a matter of public record, except those which are dismissed. The amendment further provides that officials involved in actions affecting their financial interests shall provide a written statement to the presiding officer and shall disqualify themselves from deliberations, votes, or other actions on the potential conflict of interests and shall have the written statement included in the meeting minutes.

COMMISSION GRANTS JUST CAUSE

At its May 27 meeting, the Commission reviewed just cause statements from 214 candidates for local office who had filed their Statement of Economic Interests more than twenty days after becoming candidates. The State Ethics Act provides that a candidate's name shall not appear on the election ballot if he fails to file the Statement of Economic Interests within twenty days after becoming a candidate, except upon showing just cause.

The Commission granted just cause to most candidates, leaving three off the election ballot, and withholding action on seven others.

Concurrent with the Commission's meeting, a House of Representative candidate was being heard concerning his suit against the House Ethics Committee in having his name stricken from the June 10 primary ballot. The circuit judge ordered that his name shall be on the election ballot since he had substantially complied with the law. Seven other House candidates whose names were previously ordered removed by the House Ethics Committee were ordered reinstated by that Committee as a result of the court action.

In conjunction with the court decision and the action of the House Ethics Committee, the State Ethics Commission reinstated all but one candidate who had not provided any just cause request.

CAMPAIGN DISCLOSURES REQUIRED

Each candidate whose name appeared on the June 10 primary ballot is required to file a Campaign Disclosure Form prior to July 10. The form requires itemized disclosures of all contributors of more than \$100 and itemization of all expenditures. The form is required of all candidates, whether successful or not and even if no money was received or spent. In addition, any committees or groups which receive or solicit funds to influence an election are required to file.

COMPLAINTS

Any individual may file a complaint alleging a violation of the State Ethics Act. The complaint must be filed on the Commission's Complaint Form requiring a sworn statement detailing the allegations and the code section of the State Ethics Act which the public official or employee is alleged to have violated.

Immediately after receiving a complaint, the Commission forwards a copy of the complaint to the person alleged to have violated the law. At its next meeting, the Commission reviews the complaint to determine if the complaint alleges facts sufficient to constitute a violation. If so, an investigation is conducted. If not, the complaint is dismissed and the matter stricken from public record.

Upon completion of its investigation, the Commission reviews the investigation to determine if there is probable cause. If so, the matter is scheduled for a hearing or an advisory opinion is issued requiring compliance within a reasonable time period.

At any hearing, all parties to the complaint action are entitled to representation, may call and cross-examine witnesses, and may introduce exhibits. The hearing is conducted in executive session.

Upon completion of the hearing and notifying the parties to the action of the disposition of the complaint, the Commission, unless the matter is stricken from public record, makes the action a matter of public record and refers it to the appropriate authorities.

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State of South Carolina State Ethics Commission

DIGEST OF ADVISORY OPINIONS

June 1980

80-038

April 29, 1980

SUBJECT: PHYSICIANS RESIDING IN STATE-OWNED HOUSING

The State Appropriations Act provides guidelines as to assignment of state-owned housing. The Department of Mental Health was advised to develop a formal written policy in conjunction with the State Appropriations Act and the Office of the Attorney General.

80-045

April 29, 1980

SUBJECT: EMPLOYEES OF THE S.C. BAR ASSOCIATION-APPLICABILITY OF REPORTING PROVISIONS

The employees of the State Bar are employees of the State, and therefore, come within the purview of the State Ethics Act. Any employees of the State Bar whose annual compensation rate is \$20,000 or more are required to file the Statement of Economic Interests.

80-051

April 29, 1980

SUBJECT: DUAL EOMPLYMENT-TELECOMMUNICATION MANAGER CONDUCTING NETWORK STUDY

The Telecommunications Manager of the Division of General Services, may conduct a communications network study for the University of S.C. He would be required to provide a written statement to his superior describing the nature of his potential conflict and must then disqualify himself from any further discussions or actions concerning the study.

80-053

April 29, 1980

SUBJECT: EMPLOYEE SERVING ON ADVISORY COUNCIL OF PRIVATE BUSINESS

An employee may serve on the advisory council of a private business if such service is not part of the employee's position responsibilities. However, the employee should review his actions to insure that his service on the advisory board is not intended to increase the amount of business provided to the company.

80-054

April 29, 1980

SUBJECT: EMPLOYEE OF STATE AUDITOR'S OFFICE SERVING AS ADVISER TO ACCOUNTANCY BOARD

There does not appear to be any provision of the State Ethics Act which would prohibit an employee of the Auditor's Office from reviewing substandard reports for the Accountancy Board. The State Ethics Commission understands that service would be on the employee's own time and would not involve review of any audit reports of any public agencies which might come within his official responsibility.

80-055

April 29, 1980

SUBJECT: COUNTY COUNCILMAN CONDUCTING BUSINESS WITH COUNTY

Once the county councilman or the business with which he is associated determines to engage in bidding on a county contract the councilman is then required to provide a written statement of his actions to the council chairman and refrain from any discussions, votes, or participation in the bidding process. The councilman should insure that the bids are made without utilization of any information which is not generally available to other potential bidders. There does not appear to be any prohibition against the councilman discussing an insurance voluntary payroll deduction plan with county hospital employees.

80-056

April 29, 1980

SUBJECT: CITY ATTORNEY-APPLICABILITY OF FILING REQUIREMENTS

A city attorney paid an annual retainer of less than \$20,000 is not required to file a Statement of Economic Interests.

80-057

April 29, 1980

SUBJECT: COUNTY ATTORNEY BECOMING LAW PARTNER OF COUNTY COUNCIL MEMBER

A county attorney and a county councilman who merged their law firms would be required to follow the guidelines for outside business interests in any matters requiring their actions or decisions which would affect directly the financial interests of their business partnership. It was also advised that if frequent conflicts arise, consideration should be given to the resignation of one or the other from the official position.

80-058

May 27, 1980

SUBJECT: COUNTY ATTORNEY ADVISING ON MATTERS AFFECTING BUSINESS INTERESTS

The Marion County Attorney is a salaried county employee; however, there is no prohibition against his holding this position and also being involved in outside business interests which may require action of the County Council. If the actions of council involve any business with which he is associated, the County Attorney shall abstain from any participation in such actions.

80-059

April 29, 1980

SUBJECT: EMT EMPLOYEE RUNNING FOR AND HOLDING OFFICE OF CORONER

There appears to be no provision of the State Ethics Act which would prohibit a county emergency medical services employee from running for and holding the office of coroner.

80-060

April 29, 1980

SUBJECT: EMPLOYEE ENGAGING IN CONSULTING WORK

An employee of the Land Resources Conservation Commission may contract with local farmers or businessmen to install irrigation systems consistent with the guidelines for outside employment.

80-061

April 29, 1980

SUBJECT: SCHOOL DISTRICT SUPERINTENDENT TAKING ACTION ON SALARY INCREASES

A school district Superintendent must follow the disclosure and disqualification procedures of §8-13-460 involving the deliberations and votes on his personal salary.

80-062

April 29, 1980

SUBJECT: DEPARTMENT OF YOUTH SERVICES LEASING PROPERTY FROM EMPLOYEE
DEPARTMENT OF YOUTH SERVICES LEASING PROPERTY FROM FAMILY COURT JUDGE

A public employee may lease property to his agency provided that the public notice and competitive bidding process is followed, if appropriate, and that the employee follow the disclosure and disqualification of §8-13-460. The agency may lease property provided the employee is not involved in the decision-making process.

A question to whether the Department of Youth Services may lease property from a Family Court Judge should be referred to the Board of Commissioners on Judicial Standards.

80-064

May 27, 1980

SUBJECT: MEMBERS OF LOCAL BOARDS AND COMMISSIONS-APPLICABILITY OF §8-13-460

Members of county boards or commissions who are involved in taking actions or making decisions affecting their financial interests shall provide a written statement to the presiding officer and must then disqualify themselves from votes, deliberations, or other actions on the matter. The reason for their disqualification shall be noted in the meeting minutes.

80-065

May 27, 1980

SUBJECT: CPA FIRM OF COUNTY COUNCIL MEMBER AUDITING PUBLIC SERVICE DISTRICT

A county councilman was requested to audit a public service district whose board members are appointed by the Governor based on recommendations from the county council. If the councilman does engage in the audit, he would be required to follow the disclosure and disqualification procedures of §8-13-460. The councilman was cautioned against entering the contract if the contract was a pre-appointment agreement or was given as a result of the councilman's vote on an appointment recommendation. The councilman was also cautioned about the use of his official position to obtain contract and that the councilman must determine whether the contract, though not specifically prohibited, has the appearance of impropriety.

80-066

May 27, 1980

SUBJECT: STATE EMPLOYEE CAMPAIGNING FOR COUNTY CANDIDATE

No specific provisions of the State Ethics Act concern campaigning for elective office. The Commission advised against the utilization of public materials and equipment. The Commission advised that questions concerning the applicability of the Hatch Act should be referred to the U.S. Office of Personnel Management.

80-067

May 27, 1980

SUBJECT: ALLENDALE COUNTY RURAL HEALTH PROGRAM-APPLICABILITY OF STATE ETHICS ACT

The Allendale County Rural Health Program is a non-profit, tax-exempt organization which is not a public agency encompassed by the State Ethics Act.

80-068

May 27, 1980

SUBJECT: POLICE CHIEF CAMPAIGNING FOR CANDIDATE WHILE ON DUTY

The Commission advised against the utilization of public materials and equipment in campaigning and also advised against utilization of an employee's authority as a public employee to campaign for a candidate.

80-069

May 27, 1980

SUBJECT: MEMBER OF BOARD OF BARRIER FREE DESIGN EMPLOYED BY THE
DEPARTMENT OF EDUCATION

The Department of Education is a Special Review Agency for barrier free design and is not regulated by the Board of Barrier Free Design. There does not appear to be a conflict in a member of the Board of Barrier Free Design being employed by the Department of Education in the School Planning and Building Division.

April 29, 1980

80-062

SUBJECT: DEPARTMENT OF YOUTH SERVICES LEASING PROPERTY FROM EMPLOYER
DEPARTMENT OF YOUTH SERVICES LEASING PROPERTY FROM FAMILY COURT JUDGE

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May 27, 1980

State Ethics Commission

P. O. BOX 11627
COLUMBIA, S. C. 29211

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May 27, 1980

80-067

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The Alledale County Rural Health Program is a non-profit, tax-exempt organization which is not a public agency encompassed by the State Ethics Act.

May 27, 1980

80-068

SUBJECT: POLICE CHIEF CAMPAIGNING FOR CANDIDATE WHILE ON DUTY

The Commission is in the process of publicizing the State Ethics Act and equipment in campaigning as a public employee.

May 27, 1980

80-069

SUBJECT: MEMBER OF BOARD OF BARRIER FREE DESIGN EMPLOYED BY THE DEPARTMENT OF EDUCATION

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BETTY E. CALLAHAM
S. C. STATE LIBRARY*
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